

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re the U.S. Patent Application of:

Douglas Deeds

Serial No.: 10/714,504

Filed: November 13, 2003

For: User Interface Apparatus, And
Associated Method, For
Facilitating Viewing Of Display
Indicia On A User Display By
A Visually-Impaired User

Atty. Docket No.: 004770.00499

Group Art Unit: 2174

Examiner: Peng Ke

Confirmation No.: 1052

REPLY BRIEF ON APPEAL

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. §41.41, this is a Reply Brief filed in response to the Examiner's Answer mailed May 13, 2008. This brief is being submitted within the two-month period provided under the regulations.

Believing that an oral hearing is necessary and desirable for a proper presentation of this appeal, Appellant submits herewith a Request for Oral Hearing.

The Commissioner is authorized to charge any necessary fees in connection with this Reply Brief and the Request for Oral Hearing to our Deposit Account No. 19-0733.

ARGUMENT

The Examiner's Answer offers additional explanation and reasoning to justify the ground of rejection from the Final Office Action, and the present Reply Brief responds to that new explanation.

A. There Still is No *Prima Facie* Showing of Obviousness for Dependent Claims 12, 24 and 25

For starters, Appellant notes that the Answer does not address the deficiencies Appellant raised regarding the rejections of dependent claim 12 (what is the alleged "selection interval" in the combination?), dependent claim 24 (how does the Tachibana caret 39 allegedly change?) and dependent claim 25 (why would anyone use Tachibana's system, which zooms in on the caret 39 when generating a text message, while receiving a message?). At a minimum, and as explained in Appellant's opening brief, the rejections of these claims cannot stand on the current record.

B. There is No Rational Underpinning to the Alleged Combination of Bast and Tachibana

Appellant maintains the position that the proposed combination, and in particular the specific manner of combining, makes no sense, and that the record still does not provide the articulated reasoning and rational underpinning required under KSR Int'l Co. v. Teleflex, Inc., 82 USPQ2d 1385, 1396 (U.S. 2007), for this combination. Specifically, there is no rational reason why one would have used the Tachibana display technique, which depends on a text input cursor as a focal point for zooming during text input, to display a received message in Bast, since Bast has no text input cursor during message review. Tachibana has a cursor (caret 39) in an active editing window 37, and uses that cursor as a focal point to determine what part of the window 37 will be enlarged for display in the enlargement window 38. Tachibana uses the input cursor for this secondary purpose so the user does not have to divert attention away from typing a message to set

the zoomed area. See Tachibana col. 1, lines 51-55. The alleged combination relies on Bast's message receiving features, adding them to the Tachibana zooming technique, but offers no explanation for why Bast's device would even have a cursor during message review.

The Examiner's Answer's response to this point on motivation offers no better rationale. In the Answer, the Examiner alleges that Tachibana "correct[s] the precise problem in Bast, which required [the] user to set and re-set the enlargement display area on the display screen."¹ That is not the case. Bast does not even have an enlargement display area for the user to set. To the contrary, when Bast zooms in or out, it resizes the entire display, as illustrated in Bast Figs. 10 and 11, so it actually does not suffer the problem that Tachibana corrects. Having resized the entire display in this manner, Bast does not need, or want, yet another enlargement window like the one in Tachibana. Indeed, Bast touts the advantages of its "uncluttered" display (Bast, para. 0045), so adding the Tachibana enlargement window (as alleged in the rejection) would not only be redundant, it would clutter the uncluttered display.

Appellant therefore respectfully submits that the Examiner's conclusory rationale for combining Bast and Tachibana fails to provide sufficient support for why and how one of ordinary skill in the art would actually make the alleged combination. Additionally, as Appellant previously observed in its opening brief, such a combination would not yield the features recited in the independent claims.

Thus, Appellant respectfully submits that because the Examiner has not provided articulated reasoning with a rational underpinning to support combining Bast with Tachibana in the particular manner alleged, the rejection of independent claims 1, 17, and 21 cannot be sustained.

¹ Examiner's Answer, p. 14.

CONCLUSION

For all of the foregoing reasons, as well as the arguments previously set forth, Appellant respectfully submits that the instant application is in condition for allowance and respectfully solicits reversal of the rejection of pending claims 1-4, 7-8, 10, 12-15, and 17-25.

Respectfully submitted,
BANNER & WITCOFF, LTD.

Dated: July 10, 2008

By: /Steve Chang/
Steve S. Chang
Registration No. 42,402

1100 13th Street, N.W.
Suite 1200
Washington, D.C. 20005-4051
Tel: 202.824.3000
Fax: 202.824.3001